

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HLV, LLC,)	
Plaintiff,)	
)	No. 1:13-cv-1366
-v-)	
)	HONORABLE PAUL L. MALONEY
PAGE & STEWART, ET AL.,)	
Defendants.)	
_____)	

ORDER OF CLARIFICATION

This matter is before the Court for clarification of the Order it issued on April 13, 2018 to guide the parties as to which evidence relating to the malicious prosecution claim remains relevant as to the due process claim. (ECF No. 466.) There, the Court used a “line-out” approach to communicate which lines of questioning and exhibits that it would not allow at trial for particular witnesses.

HLV’s counsel indicated that he required clarification on the order in an email sent to all parties to this action. Specifically, counsel indicated that he was unclear on whether lined-out exhibits had been deemed inadmissible entirely or if it meant that the exhibits could not be used for particular witnesses. The Court agrees that its prior instruction was not absolutely clear, so this order of clarification is necessary.

The significance of a lined-out exhibit, in the format used, indicates that a particular witness will not be allowed to testify as to that exhibit. It does not mean that a particular exhibit is totally stricken and cannot be introduced and used during another witnesses’

testimony, assuming the proper foundation for the exhibit is set forth and the exhibit is relevant to the triable issues in this case .

However, the Court did erroneously strike possible exhibits relating to Michael McKay's testimony. The following exhibits are potentially admissible during McKay's testimony, if relevant and otherwise proper under the federal rules of evidence.

- March 26, 2013 Order;
- Video of the April 9 incident,
- Police Report of the April 9 Incident; and
- Order of Appointment of a Special Prosecutor.

IT IS SO ORDERED.

Date: April 17, 2018

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge